

REMARKS

This is in response to the Office Action mailed on March 10, 2003. In the Office Action, the drawings were objected to based on informalities. Pending claims 1-5 and 7-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Heckmann, U.S. Pat. No. 5,638,967, in view of Japanese Patent 5-178171 ("the Japanese '171 reference"). With this amendment, a proposed drawing correction is submitted. With these amendments and the following arguments, the rejections of the Figures and of claims 1-5 and 7-10 are overcome. Reconsideration and notice to that effect is respectfully requested.

The drawings were objected to based on informalities. Specifically, the Office Action states that "reference numeral 11 does not appear to point to a pump in the drawings." (Office Action, page 2). With this Amendment, proposed drawing corrections are submitted in which the pump is shown schematically relative to the mast. Applicant respectfully thanks the Examiner for the telephone message exchange of June 7-9 wherein this proposed drawing correction was discussed. With these corrected figures, objection to the drawings is overcome and should be withdrawn.

Claims 1-5 and 7-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Heckmann in view of JP 5-178171. In considering Applicant's previous arguments, the Office Action agreed that there must be some teaching, suggestion, or motivation to combine the references either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The Office Action stated,

In this case, as noted above Heckmann, the primary reference, teaches at column 5, lines 1-5 that the embodiments disclosed are examples only having in common that the front beams and guides are curved. This disclosure in the primary reference would lead the skilled artisan to consider other examples of embodiments from the art such as Japanese '171's, so long as at least the front beams and guides are curved as already taught by Heckmann.

This statement from the Office Action takes too much for granted, and fails to consider how the Office Action has modified both the teaching of Japanese '171 and Heckmann to arrive at the present

invention. Under the Office Action's reasoning, any structure having at least the front beams and guides curved would be unpatentable in view of Heckmann, just because Heckmann suggests different embodiments. In this way the Office Action confuses what was taught by Heckmann with what is claimed by Heckmann. While the Heckmann patent may cover subsequent improvements and embodiments which use curved front beam and guides, that does not mean that the Heckmann patent teaches all such subsequent embodiments. That the present invention might be dominated by the earlier Heckmann patent does not render the present invention unpatentable. A separate inquiry must be made to consider the present invention in light of the **teachings** of the Heckmann patent.

The Office Action fails to recognize how the cited combination impermissibly uses the present application as a hindsight roadmap to arrive at the rejection. A review of the embodiment of FIGS. 9 and 10 of the Heckmann patent will further bring to light how the Office Action has performed a hindsight reconstruction. First, as stated in Applicant's prior Amendment, Applicant maintains that the destabilizing art of Japanese '171 is not pertinent prior art to the present invention for which there has been a suggestion to combine. But further, consider the combination of Japanese '171 with the embodiment of FIGS. 9 and 10 of Heckmann. FIGS. 9 and 10 show rear legs 23 and 24 (which are stabilizing extensions) which extend and retract strictly laterally. Presuming that the worker skilled in the art would consider destabilizing art such as Japanese '171 pertinent, such a worker would still only substitute the rear legs of Japanese '171 for the rear legs 23 and 24 of Heckmann FIGS. 9 and 10. There is no disclosure or suggestion (other than using hindsight from the present invention) to change any transverse common carrier from the Japanese '171/Heckmann FIG. 9 combination from a transverse orientation to a longitudinal combination. There is no disclosure or suggestion (other than using hindsight from the present invention) to change any straight common carrier from the Japanese '171/Heckmann FIG. 9 combination from a straight alignment to a curved alignment. There is no disclosure or suggestion (other than using hindsight from the present invention) that two curved stabilizing extensions can be effectively supported from a single common carrier. All of these teachings came solely from the present

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application, not from Heckmann, not from Japanese '171, and not from any combination of Heckmann with Japanese '171.

All of claims 1-5 and 7-10 are in condition for allowance. Reconsideration and notice to that effect is respectfully requested. The Examiner is invited to contact the undersigned at the telephone number listed below if such a call would in any way facilitate allowance of this application.

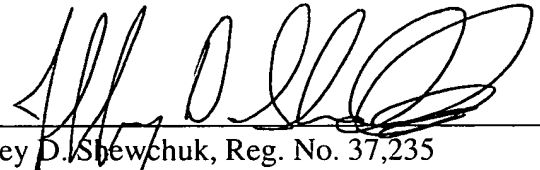
Respectfully submitted,

KINNEY & LANGE, P.A.

Date:

July 10, 2003

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